

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JUNE 30, 2005

AMENDED IN ASSEMBLY MAY 16, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 302

Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Koretz, Maze, Nation, Tran, Vargas, and Yee)

February 9, 2005

An act to add Sections 5588.1, 5588.2, 5588.3, and 5588.4 to, to repeal Section 5589 of, and to repeal and add Section 5588 of, the Business and Professions Code, relating to architecture, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 302, as amended, Committee on Business and Professions. Architects: reporting requirements.

Existing law provides for the licensing and regulation of architects by the California Architects Board. Existing law requires that a settlement or arbitration award in excess of \$5,000 of a claim or action for damages caused by a licensee's fraud, deceit, negligence, incompetence, or recklessness in practice be reported to the board by insurers and licensees.

This bill would delete these requirements and would instead require a licensee, a liability insurer, or a government agency that self insures a licensee to submit a report to the board meeting certain requirements where there is a civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or

arbitration award against the licensee in an action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of architecture if the amount or value of the judgment, settlement, or award is \$5,000 or more. The bill would authorize the board to adopt regulations defining the reporting requirements.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5588 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 5588 is added to the Business and
- 4 Professions Code, to read:
- 5 5588. (a) A licensee shall report to the board in writing
- 6 within 30 days of the date the licensee has knowledge of any
- 7 civil action judgment, settlement, arbitration award, or
- 8 administrative action resulting in a judgment, settlement, or
- 9 arbitration award against the licensee in any action alleging
- 10 fraud, deceit, misrepresentation, breach or violation of contract,
- 11 negligence, incompetence, or recklessness by the licensee in the
- 12 practice of architecture if the amount or value of the judgment,
- 13 settlement, or arbitration award is five thousand dollars (\$5,000)
- 14 or greater.
- 15 (b) The report required by subdivision (a) shall be signed by
- 16 the licensee and shall set forth the facts that constitute the
- 17 reportable event. If the reportable event involves the action of an
- 18 administrative agency or court, the report shall set forth all of the
- 19 following:
- 20 (1) The title of the matter.
- 21 (2) The court or agency name.
- 22 (3) The docket number.
- 23 (4) The claim or file number.
- 24 (5) The date the reportable event occurred.
- 25 (c) A licensee shall promptly respond to oral or written
- 26 inquiries from the board concerning the reportable events,

1 including inquiries made by the board in conjunction with license
2 renewal.

3 (d) Failure of a licensee to report to the board in the time and
4 manner required by this section shall be grounds for disciplinary
5 action.

6 SEC. 3. Section 5588.1 is added to the Business and
7 Professions Code, to read:

8 5588.1. (a) Within 30 days of payment of all or any portion
9 of a civil action judgment, settlement, or arbitration award
10 described in Section 5588 against a licensee of the board in
11 which the amount or value of the judgment, settlement, or
12 arbitration award is five thousand dollars (\$5,000) or greater, any
13 insurer providing professional liability insurance to that licensee
14 shall report to the board all of the following:

15 (1) The name of the licensee.

16 (2) The claim or file number.

17 (3) The amount or value of the judgment, settlement, or
18 arbitration award.

19 (4) The amount paid by the insurer.

20 (5) The identity of the payee.

21 (b) Within 30 days of payment of all or any portion of any
22 civil action judgment, settlement, or arbitration award described
23 in Section 5588 against a licensee of the board in which the
24 amount or value of the judgment, settlement, or arbitration award
25 is five thousand dollars (\$5,000) or greater, any state or local
26 government agency that self insures that licensee shall report to
27 the board all of the following:

28 (1) The name of the licensee.

29 (2) The claim or file number.

30 (3) The amount or value of the judgment, settlement, or
31 arbitration award.

32 (4) The amount paid.

33 (5) The identity of the payee.

34 SEC. 4. Section 5588.2 is added to the Business and
35 Professions Code, to read:

36 5588.2. The requirements of Section 5588 and 5588.1 shall
37 apply if a party to the civil action, settlement, arbitration award,
38 or administrative action is or was a sole proprietorship,
39 partnership, firm, corporation, or state or local government
40 agency in which the licensee is or was an owner, partner,

1 member, officer, or employee and is or was the licensee in
2 responsible charge of that portion of the project that was the
3 subject of the civil judgment, settlement, arbitration award, or
4 administrative action.

5 SEC. 5. Section 5588.3 is added to the Business and
6 Professions Code, to read:

7 5588.3. Notwithstanding any other provision of law, a
8 licensee shall not be considered to have violated a confidential
9 settlement agreement or other confidential agreement by
10 providing a report to the board as required by this article.

11 SEC. 6. Section 5588.4 is added to the Business and
12 Professions Code, to read:

13 5588.4. The board may adopt regulations to further define the
14 reporting requirements of Sections 5588 and 5588.1.

15 SEC. 7. Section 5589 of the Business and Professions Code is
16 repealed.

17 SEC. 8. *This act is an urgency statute necessary for the*
18 *immediate preservation of the public peace, health, or safety*
19 *within the meaning of Article IV of the Constitution and shall go*
20 *into immediate effect. The facts constituting the necessity are:*

21 *In order to make needed changes to licensing and regulatory*
22 *provisions relative to architects as soon as possible, it is*
23 *necessary that this act take effect immediately.*